

June 2, 2005

CONSISTENT FUEL GAINS

We are aware of an increasing number of instances wherein a retailer's sales of fuel exceed their purchases on a consistent basis. We have always recognized that changes in temperature could result in inventory losses or gains; however, given Nebraska's temperature fluctuations, these variations normally offset each other resulting in very small gains or losses. However, we are now encountering situations where gains are being determined for an extended period of time accompanied by little or no offsetting losses.

Our reporting forms calculate tax liabilities based upon the difference between purchases and exempt sales. Those gains resulting from inventory/sales variances were not anticipated and there is no provision for reporting them on the Form 73. State law, however, is quite specific in stating that the fuel tax must be collected and remitted on each gallon of fuel sold. NEB. REV. STAT. 66-486 (3), states in part:

"..... the per-gallon amount of the tax shall be added to the selling price of every gallon of such motor fuels sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax. The tax shall be a direct tax on the retail or ultimate consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on the producer, supplier, distributor, wholesaler, or importer as specified in Chapter 66, article 4, shall be as agents of the state for the precollection of the tax."

To determine if this situation affects you, you must compare your Sales per Change in Inventory to your Sales per Sales Records for each month of at least two consecutive quarters.

Determination of Sales per Change in Inventory

Beginning Inventory + Purchases - Ending Inventory

Determination of Sales per Sales Records

Total of fuel sales per periodic entries in sales records

Gains Resulting from Inventory/Sales Variance

If the “Sales per Sales Records” exceed the “Sales per Change in Inventory,” for each or a majority of the months tested, contact your Account Representative. While this may not mean you automatically have a tax liability, it is important we have the opportunity to review your operations to ensure that you are not unknowingly incurring liabilities.

If your “Sales per Sales Records” and “Sales per Change in Inventory” basically offset each other for these test periods, you do not need to contact us.

If you have any questions regarding this matter, do not hesitate to contact your Account Representative.